



**Russell Kennedy
Lawyers**

Workplace Relations Checklist

Contracts of employment – why are they important?

October 2016

It is imperative that employers ensure that each employee is covered by a valid, up to date contract which sets out the terms and conditions of employment. The contract creates certainty for both the employer and the employee. In our experience, a well-drafted contract is beneficial for both the employer and the employee, while poorly-drafted contracts are more likely to result in costly and time-consuming disputes.

The contract need not be a lengthy document. It may be appropriate to use a letter of offer for some employees for example, where an award or enterprise agreement applies to the employment. However, it is still essential that there be some form of contract in place to cover and set out the employment relationship, and that the terms and conditions are appropriate for both the workplace and the particular employee.

What questions should you ask?

When preparing an employment contract for a new employee, and whether you are creating a new contract from scratch or using an existing template, there are several things you should consider:

- ☐ Are you clear about the interaction between the employment contract and the National Employment Standards, modern awards and enterprise agreements? Is the contract clear?
- ☐ What will be the employee's position, overall duties, hours and place of work, reporting arrangements and remuneration?
- ☐ Is the employee paid based on hours worked, or has a total annual remuneration package been agreed?
- ☐ What arrangements have been put into place in relation to leave?
- ☐ Are there any benefits particular to the workplace or the role (for example, a vehicle, uniform, allowances, travel or electronic equipment)?
- ☐ Does the contract include provisions in relation to bringing the contract to an end including termination with and without notice, gardening leave and redundancy?
- ☐ Is the contract a fixed or maximum term contract? If so, is this necessary?
- ☐ Does the role attract any specific compliance requirements such as continuing education, registrations, police or bankruptcy checks, licences or qualifications?
- ☐ Is it necessary to set out provisions to protect the business such as clauses relating to confidential information, intellectual property, or post-employment restraints?
- ☐ Does your contract require your employees to comply with workplace policies, without making those policies part of the contract?
- ☐ Has the contract been reviewed and updated recently?

Please contact the **Russell Kennedy Workplace Relations, Employment and Safety team** if you would like advice about implementing or updating contracts of employment, or if you would like assistance with your employment contracts.